

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Section 407 Inquiry

Docket No. PI2012-1

PUBLIC REPRESENTATIVE COMMENTS  
(August 27, 2012)

On July 31, 2012, the Commission issued Order No. 1420 requesting comments on the principles that should guide the development of its views on whether proposals affecting market dominant rates and classifications for international postal products and services, to be discussed at the 25<sup>th</sup> Congress of the Universal Postal Union (UPU), are consistent with the standards and criteria for modern rate regulation established by the Commission.<sup>1</sup> Order No. 1420 also designated the undersigned as Public Representative and established August 20 as the deadline for submitting comments. By Order No. 1442, the Commission extended the comment deadline to August 27.<sup>2</sup>

By statute, the Secretary of State exercises primary authority with respect to international postal services, including the determination of the positions of the United States in negotiations with international bodies such as the UPU. 39 U.S.C. § 407(b)(1). However, the statute also requires the Secretary of State to obtain the views of the Commission on whether a treaty, convention, or amendment that establishes rates or classifications for international market dominant products is consistent with standards and criteria established by the Commission pursuant to section 3622 of title 39. *Id.*, § 407(c)(1). Treaties, conventions, or amendments are to be consistent with the Commission's views unless the Secretary determines that such

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<sup>1</sup> Notice Providing Opportunity to Comment on Development of Commission Views Pursuant to 39 U.S.C. 407(c)(1), July 31, 2012 (Order No. 1420).

<sup>2</sup> Order Granting, in Part, Motion for Extension of Time to File Comments, August 20, 2012 (Order No. 1442).

consistency is not in the foreign policy or national security interest of the United States. *Id.*, § 407(c)(2).

On August 14, 2012, James I. Campbell, Jr., filed preliminary comments.<sup>3</sup> Attached to the comments are revisions to the terminal dues<sup>4</sup> provisions of the Universal Postal Convention that have been proposed by the Postal Operations Council (POC). Campbell Draft Comments, Appendix A.

The Postal Operations Council (POC) is the technical and operational mind of the UPU and consists of 40 member countries, elected during Congress. The body elects its own chair and meets annually at the UPU's headquarters in Berne.

The POC's work programme is geared towards helping Posts modernize and upgrade their postal products and services. It deals with the operational, economic and commercial aspects of the postal business. The body also makes recommendations to member countries on standards for technological, operational or other processes within its competence where uniform practices are essential.<sup>5</sup>

According to Mr. Campbell, "Under the POC proposal, . . . in almost no country is the terminal dues reflective of domestic postage." Campbell Draft Comments at 15. "[T]he uniform nature of . . . terminal dues distort relations between [countries' postal operators], favoring some at the expense of others." *Id.* at 18.

The issue raised by Mr. Campbell has been addressed by the Commission in its Annual Compliance Determination Reports (ACDs). In its first ACD, the Commission stated that

the revenues for inbound mail have been problematic. The noncompensatory nature of market dominant inbound mail means that domestic mailers are subsidizing foreign mailers who use the same postal infra-structure, but bear none of the burden of contributing to its institutional cost. . . . While the UPU is moving, in principle, towards more cost-based, country specific rates, progress has been slow.

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<sup>3</sup> Comment on Principles for Evaluation of the Terminal Dues Proposals Before the Doha Congress of the UPU: Draft Description of the POC Proposal, August 14, 2012 (Campbell Draft Comments).

<sup>4</sup> Terminal dues are payments from one country's postal service to another country's to compensate the second country for delivering "letter post" originating in the first country. "Letter post" is mail other than Parcel Post or Express. Terminal dues are established by the UPU. See 2008 ACD at 80, n.44.

<sup>5</sup> <http://www.upu.int/the-upu/postal-operations-council/about-poc.html>.

2007 ACD at 116. The Commission urged the Postal Service to “negotiate compensatory bilateral or multilateral rates with industrialized countries and those developing countries that are sources of significant volume.” *Id.* at 119. The cost coverage for inbound First-Class Mail International was “far below 100 percent.” *Id.* at 121.

For FY 2008, cost coverage improved to 60.5 percent. 2008 ACD at 81. The Commission again pointed to the possibility of the Postal Service’s negotiating bilateral or multilateral compensatory rates. *Id.* at 82. For FY 2009, cost coverage slightly improved to 60.6 percent. 2009 ACD at 109. The Commission stated that the noncompensatory nature of the terminal dues regime “appears contrary to long-standing postal policy, which requires that rates ‘be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.’” *Id.* For FY 2010, cost coverage improved to 79.4 percent. 2010 ACD at 131. During FY 2010, the Postal Service negotiated bilateral rate agreements with China and the Netherlands.

The Commission recommend[ed] that the Postal Service pursue more aggressively the negotiation of additional compensatory bilateral (or multilateral) agreements in the upcoming fiscal year . . . .

*Id.* at 132. For FY 2011, cost coverage was 86.4 percent. 2011 ACD at 145. The Commission recommended that the Postal Service coordinate with the State Department “to negotiate more compensatory terminal dues rates in the UPU Terminal Dues Group and pursue adoption of the most compensatory rates possible at the 2012 UPU Congress.” *Id.* The Commission noted that the Postal Service had negotiated additional bilateral contracts and urged the Postal Service “to negotiate additional compensatory bilateral (or multilateral) agreements with foreign postal operators in the upcoming fiscal year, particularly with its largest exchange partners.” *Id.* at 146.

The Commission has maintained a consistent position with respect to compensatory terminal dues. The Commission should reiterate that position in the views it offers to the State Department.

On August 2, 2012, the Advisory Committee on International Postal and Delivery Services met to discuss the United States’ participation at the 25<sup>th</sup> UPU Congress. According to the minutes of that meeting, there are almost 400 proposals that will be brought before the 25<sup>th</sup> Congress, and various U.S. government agencies are

developing position papers on the proposals.<sup>6</sup> Prior to the meeting, members of the advisory committee received a draft of “U.S. Strategic Plan for the UPU for 2013-2016.”<sup>7</sup> It is not clear whether the State Department will seek (or has already sought) the views of the Commission on either the 400 proposals or the May 15 Draft. It would have been helpful to commenters if the State Department’s 2008 request and the Commission’s response had been available. Commenters would then have understood the task before the Commission and could have offered more focused suggestions. Mr. Campbell focused on three proposals. But out of 400 proposals, there are probably others that implicate the Commission’s expertise.

One such proposal is that of The Netherlands to increase the maximum weight of Letter Post from two kilograms (4.4 pounds) to five kilograms (11 pounds). August 2 Minutes, Item 19. Such an increase in weight per piece could create higher unit costs for the Postal Service but without a commensurate increase in revenue. This would exacerbate the inadequate cost coverage for Inbound Single-Piece First-Class Mail International. Presumably, the Commission would find this proposal to be inconsistent with its policy of seeking a proper cost coverage (assuming that the Commission will be responding to specific proposals).

Respectfully submitted,

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<sup>6</sup> <http://www.state.gov/documents/organization/196921.pdf>, Item 5 (August 2 Minutes).

<sup>7</sup> <http://www.state.gov/p/io/ipp/190916.htm> (May 15 Draft).